IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1400 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ASHWIN NATHABHAI BHIMANI & 1 - Applicant(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR MM TIRMIZI for Applicant(s) : 1 - 2.
Mr.K.P.Raval, A.P.P. for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2,
NOTICE UNSERVED for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 12/04/2007

ORAL JUDGMENT

1. This application under Section 482 of the Code of Criminal Procedure is preferred by the applicants nos.1 and 2 who are husband and wife with a prayer to quash the proceedings in CR

no.I 39 of 2006 with Dhrol Police Station, Jamnagar,

2. The respondent no.2- herein who is the father of the applicant no.2 lodged the aforesaid complaint for the allelged offences punishale under Sections 363 and 366 of the Indian Penal Code against the applicants nos.1 alleging that he had kidnapped his daughter the applicant no.2 by giving false promises of marriage.

3. It is the case of the applicants-accused that they have got married to each other and that the applicant no.2 is the legally wedded wife of the applicant no.1 and that they are residing together as husband and wife since the date of their marriage on 26th April, 2006. Under the circumstances, it is prayed that the proceedings in CR no.I 39 of 2006 is required to be quashed and set aside.

4. Heard learned Advocate Mr. Tirmizi for the petitioner, learned A.P.P. Mr. K.P.Raval for the respondet no.1-State.

5. Learned Counsel for the applicants Mr. Tirimizi has submitted that the applicants nos.1 and 2 are major and are residing as husband and wife from the date of their marriage on 26th April, 2006; that the applicant no.2 being the legally wedded wife of the applicant no.1, no case is made out against the applicants as alleged in the complaint. According to the learned Counsel, a false

complaint has been lodged as the parents of the applicant no.2 wanted to get her married to another person who happens to be a relative of the step mother of the applicant no.2. In support of his submission, Mr. Tirmizi has produced the affidavit filed by the applicant no.2-Chandini wherein she has specifically stated that she had got married with the applicant no.1-Ashwain Nathabhai Bhimani out of her own free will and volition and not under threats of coercion by any one.

6. Having gone through the entire record as also the documents produced, this Court is of the opinion that the applicants nos.1 and 2 being major , legally wedded and residing together happily as husband and wife, it is not desirable to continue with the proceedings in CR. I 39 of 2006 pending against them. I am fortified in my view by the decision rendered in the case of Lata Singh v. State of U.P. & Anr.reported in AIR SCW 3499.

7. In the result, this application is allowed. The complaint in CR no.I 39 of 2006 registered with Dhrol Police Station, Jamnagar, against the present applicants is hereby quashed and set aside. Rule is made absolute.

(M.D.Shah,J.)

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